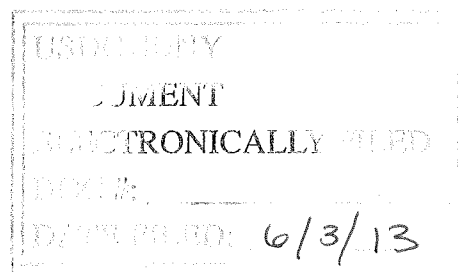


Cote, D.



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
FILOMENO NUNEZ, JOSE BUSTAMANTE,
LUIS ALBERTO MONTERO, RICARDO
GARCIA, JESUS FLORES, EDUARDO
GUTIERREZ, ALEJANDRO SANCHEZ and
VICTOR SUZREZ,

Plaintiffs,

v.

BISTRO NEW YORK DEVELOPMENT
INC., (d/b/a BISTRO NEW YORK), BISTRO
369 FOOD CORP., (d/b/a BISTRO NEW
YORK), LEON MOORE, GEORGE
JAMIESON and JONG K. MOON,

Defendants.

Civil Action No. 13-CV-0426 (DLC)

ECF Case

**STIPULATION AND
~~PROPOSED~~ ORDER
WITH RESPECT TO
EDUARDO GUTIERREZ**

WHEREAS, Eduardo Gutierrez is listed as a Plaintiff in the caption of this action;

WHEREAS, Michael Faillace & Associates, P.C., has purported to appear as counsel of record for Eduardo Gutierrez in this action;


WHEREAS, Eduardo Gutierrez is currently represented in his individual capacity by the law firm of Emery Celli Brinckerhoff & Abady LLP;

WHEREAS, Eduardo Gutierrez' counsel has informed all parties in writing that Mr. Gutierrez never agreed to participate in this action and never signed a retainer agreement with Michael Faillace & Associates, P.C.;

IT IS HEREBY STIPULATED, by and between undersigned counsel for Plaintiffs Filomeno Nunez, Jose Bustamante, Luis Alberto Montero, Ricardo Garcia, Jesus Flores, Alejandro Sanchez and Victor Suzrez ("Plaintiffs"), Defendants Bistro 369 Food Corp., Leon Moore and George Jamieson ("Defendants"), and Eduardo Gutierrez, individually, as follows:

1. Eduardo Gutierrez is not and shall not be a Plaintiff in this action; and his name shall be removed from the caption herein.
2. Michael Faillace & Associates, P.C. does not and shall not represent Eduardo Gutierrez in this action.
3. Michael Faillace & Associates, P.C. hereby waives and relinquishes any and all claims for attorney's fees, expenses, disbursements, costs, or any other claim against Eduardo Gutierrez in connection with this action.
4. To the extent any such claims exist, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), all claims brought by Eduardo Gutierrez against any Defendant in this action are hereby dismissed without prejudice, without costs to any party.

MICHAEL FAILLACE & ASSOCIATES,
P.C.


By: 

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*Attorneys for Plaintiffs Filomeno Nunez,
Jose Bustamante, Luis Alberto Montero,
Ricardo Garcia, Jesus Flores, Alejandro
Sanchez and Victor Suarez*

Dated: May 30, 2013

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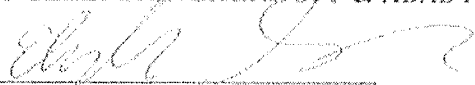
*Attorneys for Defendants Bistro 369
Food Corp., Leon Moore and George
Jamieson*

Dated: May 30 2013

S. ordered.


June 3, 2013

EMERY CELLI BRINCKERHOFF & ABADY LLP

By: 

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Attorneys for Eduardo Gutierrez

Dated: May 30, 2013

SO ORDERED.

Dated: _____

Honorable Denise Cote
United States District Judge

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